

§ 273.5

39 CFR Ch. I (7–1–05 Edition)

31 U.S.C. 3802, or a final determination that a person is liable under such statute, may provide the Postal Service with grounds for commencing any administrative or contractual action against such person which is authorized by law and which is in addition to any action against such person under chapter 38 of title 31, United States Code.

(b) In the case of an administrative or contractual action to suspend or debar any person from eligibility to enter into contracts with the Postal Service, a determination referred to in paragraph (a) of this section shall not be considered as a conclusive determination of such person's responsibility pursuant to Postal Service procurement regulations.

§ 273.5 Investigations of alleged violations.

(a) Investigations of allegations of liability under 31 U.S.C. 3802 shall be conducted by the Investigating Official.

(b)(1) For purposes of an investigation under this part, the Investigating Official may issue a subpoena requiring the production of all information, documents, reports, answers, records, accounts, papers, and data not otherwise reasonably available to the Postal Service. Any subpoena issued by the Investigating Official under this authority shall cite 31 U.S.C. 3804(a) as the authority under which it is issued, shall be signed by the Investigating Official, and shall command each person to whom it is directed to produce the specified documentary material at a prescribed time and place.

(2) In the case of contumacy or refusal to obey a subpoena issued pursuant to paragraph (b)(1) of this section, the district courts of the United States have jurisdiction to issue an appropriate order for the enforcement of such subpoena. Any failure to obey such order of the court may be punishable as contempt. In any case in which the Postal Service seeks the enforcement of a subpoena under this section, the Postal Service shall request the Attorney General to petition the district court for the district in which the person receiving the subpoena resides or

conducts business to issue such an order.

(c) Upon completing an investigation under this part, the Investigating Official shall submit to the Reviewing Official a report containing the findings and conclusions of his investigation, including:

(1) A description of the claims or statements for which liability under 31 U.S.C. 3802 is alleged;

(2) A description of any evidence which supports allegations of liability under 31 U.S.C. 3802, or where applicable, a description of any evidence that tends to support a conclusion that such statute has not been violated;

(3) An estimate of the amount of money or the value of property or services allegedly requested or demanded in violation of 31 U.S.C. 3802;

(4) A statement of any exculpatory or mitigating circumstances which may relate to the claims or statements under investigation;

(5) A statement of the amount of penalties and assessments that, considering the information described in paragraphs (c) (3) and (4) of this section, the Investigating Official recommends be demanded from the person alleged to be liable; and

(6) An estimate of the prospects of collecting the amount specified in paragraph (c)(5) of this section, and any reasons supporting such estimate.

(d) Nothing in these regulations modifies any responsibility of the Investigating Official to report violations of criminal law to the Attorney General

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§ 273.6 Evaluation by reviewing official.

(a) Based upon the investigatory report prepared by the Investigating Official, the Reviewing Official shall determine whether there is adequate evidence to believe that a person is liable under 31 U.S.C. 3802, and, if so, whether prosecution would likely result in the imposition and collection of civil penalties and applicable assessments.

(b) If the Reviewing Official determines that a case has merit and should be referred to the Judicial Officer for assignment to a Presiding Officer, he